



**GEORGIA  
MUNICIPAL  
ASSOCIATION**

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May 3, 1996

Mr. William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, D.C. 20554

**RE:** Comments on Notice of Proposed Rulemaking,  
CS Docket No. 96-83; FCC 96-151, Preemption of  
Restrictions on Over-the-Air Reception Devices

Dear Secretary Caton:

On behalf of the Georgia Municipal Association, and pursuant to 47 C.F.R. Ch. I, I am writing to present comments on the proposed rulemaking to implement the above referenced portion of the Telecommunications Act of 1996.

The proposed rule preempts most local government authority over placement of Television Broadcast Antennas (TVBS) and Multichannel Multipoint Distribution Services (MMDS) unless the local government can rebut preemption. The presumption that any and all regulation that affects the installation, maintenance or use of the technology in question is unreasonable, is, in itself, unreasonable.

Although ensuring the consumer's ability to choose from among several communications options is an important overall concern, local government cannot be presumed to be unaware and heedless

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Mr. William F. Caton

Page 2

of that concern. Generally, officials of Georgia cities know that the community that can provide an array of communications technology choices will be the community that is poised for future economic development. And, local officials, when taking into account the overall implications and consequences of their options, traditionally encourage the availability of these technologies in their communities. However, the availability of technology is only one of many concerns which must be considered.

There are other elements that contribute to the perception that a community is a desirable one, the consideration of which are not contemplated by the proposed rulemaking. A desirable community is attractive, has character and presents a pleasing and harmonious appearance. There may be a uniqueness that sets the area apart and makes it distinctive in appearance from other areas. The preservation of these unique aspects of a community are generally important to local governments in Georgia and to the communities in question. To limit the reasons for making exceptions to the FCC's rulemaking on the placement of potentially unsightly apparatus, to health or safety objectives does not allow local government or citizens the latitude to make a determination on aesthetic grounds. This is perhaps the concern most commonly held with regard to the use of this technology and we believe that it should be a consideration.

Georgia, as one of the earliest settlements in the United States, is an area accustomed to revering history. There is no provision in the proposed rulemaking for exceptions to the rules due to concerns that the historic nature of an area be preserved. We think the rules should acknowledge the importance of this distinction and allow local governments to have additional discretion in overall zoning and land use decisions with regard to historic areas.

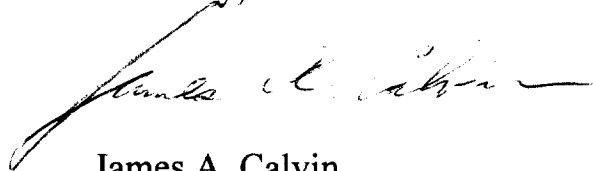
Mr. William F. Caton

Page 3

Although the proposed rulemaking allows local government to apply to the FCC for a waiver if there are concerns of a "highly specialized or unusual nature", most local governments are not prepared to undergo such a potentially time-consuming and expensive proceeding. The state of Georgia consists of over five hundred cities of which most have populations of less than 10,000 people. In general, our cities do not have access to the resources and expertise to make application to the FCC for such a waiver .

In conclusion, we would urge that the needs and interests of local governments in controlling community land use be more appropriately addressed by the final rule to implement this section of the telecommunications Act of 1996. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Calvin", with a long horizontal flourish extending to the right.

James A. Calvin  
Executive Director

JAC:bd

cc: John Meadows, GMA President  
GMA Board of Directors  
Georgia Congressional Delegation  
Randi Albert, Cable Services Bureau  
International Transcription Services, Inc.  
Dorothy Conway, Federal Communications Commission  
Timothy Fain, OMB Desk Officer